removal, storage, replacement, and reconstruction.

(b) The regulatory authority within each State shall use the soil-reconstruction specifications of paragraph (a) of this section to carry out its responsibilities under §785.17 and subchapter J of this chapter.

§ 823.11 Applicability.

The requirements of this part shall not apply to—

(a) Coal preparation plants, support facilities, and roads of surface and underground mines that are actively used over extended periods of time and where such uses affect a minimal amount of land. Such uses shall meet the requirements of part 816 of this chapter for surface mining activities and of part 817 of this chapter for underground mining activities;

(b) Disposal areas containing coal mine waste resulting from underground mines that is not technologically and economically feasible to store in underground mines or on non-prime farmland. The operator shall minimize the area of prime farmland used for such purposes.

(c) Prime farmland that has been excluded in accordance with §785.17(a) of this chapter.

[48 FR 21463, May 12, 1983, as amended at 53 FR 40839, Oct. 18, 1988]

EFFECTIVE DATE NOTE: At 50 FR 7278, Feb. 21, 1985, §823.11, paragraph (a) was suspended ''insofar as it excludes from the requirements of part 823 those coal preparation plants, support facilities, and roads that are surface mining activities''.

§ 823.12 Soil removal and stockpiling.

(a) Prime farmland soils shall be removed from the areas to be disturbed before drilling, blasting, or mining.

(b) The minimum depth of soil and soil materials to be removed and stored for use in the reconstruction of prime farmland shall be sufficient to meet the requirements of §823.14(b).

(c) Soil removal and stockpiling operations on prime farmland shall be conducted to—

(1) Separately remove the topsoil, or remove other suitable soil materials where such other soil materials will create a final soil having a greater productive capacity than that which exist prior to mining. If not utilized immediately, this material shall be placed in stockpiles separate from the spoil and all other excavated materials; and

(2) Separately remove the B or C soil horizon or other suitable soil material to provide the thickness of suitable soil required by §823.14(b), except as approved by the regulatory authority where the B or C soil horizons would not otherwise be removed and where soil capabilities can be retained. If not utilized immediately, each horizon or other material shall be stockpiled separately from the spoil and all other excavated materials. Where combinations of such soil materials created by mixing have been shown to be equally or more favorable for plant growth than the B horizon, separate handling is not necessary.

(d) Stockpiles shall be placed within the permit area where they will not be disturbed or be subject to excessive erosion. If left in place for more than 30 days, stockpiles shall meet the requirements of §816.22 or §817.22 of this chapter.

[48 FR 21463, May 12, 1983, as amended at 53 FR 40839, Oct. 18, 1988]

§ 823.14 Soil replacement.

(a) Soil reconstruction specifications established by the U.S. Soil Conservation Service shall be based upon the standards of the National Cooperative Soil Survey and shall include, as a minimum, physical and chemical characteristics of reconstructed soils and soil descriptions containing soil-horizon depths, soil densities, soil pH, and other specifications such that reconstructed soils will have the capability of achieving levels of yield equal to, or higher than, those of nomined prime farmland in the surrounding area.

(b) The minimum depth of soil and substitute soil material to be reconstructed shall be 48 inches, or a lesser depth equal to the depth to a subsurface horizon in the natural soil that inhibits or prevents root penetration, or a greater depth if determined necessary to restore the original soil productive capacity. Soil horizons shall be considered as inhibiting or preventing root penetration if their physical or chemical properties or water-supplying capacities cause them to restrict or